

§ 1951.853

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intermediary in the event it takes over loan servicing and/or liquidation.

(2) *Loan Agreement.* The signed agreement between FmHA or its successor agency under Public Law 103-354 and the intermediary setting forth the terms and conditions of the loan.

(3) *Low-income.* The level of income of a person or family which is at or below the Poverty Guidelines as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

(4) *Market value.* The most probable price which property should bring, as of a specific date in a competitive and open market, assuming the buyer and seller are prudent and knowledgeable, and the price is not affected by undue stimulus such as forced sale or loan interest subsidy.

(5) *Principals of intermediary.* Includes members, officers, directors, and other entities directly involved in the operation and management of an intermediary organization.

(6) *Ultimate recipient.* The entity receiving financial assistance from the intermediary. This may be interchangeable with the term “sub-recipient” in some documents previously issued by HHS.

(7) *Rural area.* Includes all territory of a State that is not within the outer boundary of any city having a population of twenty-five thousand or more.

(8) *State.* Any of the fifty States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(9) *Technical assistance or service.* Technical assistance or service is any function unreimbursed by FmHA or its successor agency under Public Law 103-354 performed by the intermediary for the benefit of the ultimate recipient.

(10) *Working capital.* The excess of current assets over current liabilities. It identifies the liquid portion of total enterprise capital which constitutes a margin or buffer for meeting obligations within the ordinary operating cycle of the business.

(b) *Abbreviations.* The following abbreviations are applicable:

B&I—Business and Industry

CSA—Community Services Administration

EIS—Environmental Impact Statement

HHS—U.S. Department of Health and Human Services

IRP—Intermediary Relending Program

OCS—Office of Community Services

OIG—Office of Inspector General

OGC—Office of the General Counsel

RDLF—Rural Development Loan Fund

USDA—United States Department of Agriculture

[53 FR 30656, Aug. 15, 1988, as amended at 63 FR 6052, Feb. 6, 1998]

§ 1951.853 Loan purposes for undisbursed RDLF loan funds from HHS.

(a) *RDLF Intermediaries.* Rural Development Loan funds will be used by the RDLF intermediary to provide loans to ultimate recipients in accordance with paragraph (b) of this section. Interest income, service fees, and other authorized financing charges received by RDLF intermediaries operating relending programs may be used to pay for: The costs of administering the RDLF relending program, the provision of technical assistance to borrowers, the absorption of bad debts associated with RDLF loans, and repayment of debt. All proceeds in excess of those needed to cover authorized expenses, as described above, must be returned to the Agency.

(b) *Ultimate recipients.*(1) Financial assistance from the intermediary to the ultimate recipient must be for business facilities and community development projects in rural areas.

(2) Financial assistance involving Rural Development Loan funds from the intermediary to the ultimate recipient may include but not be limited to:

(i) Business acquisitions, construction, conversion, enlargement, repair, modernization, or development cost.

(ii) Purchasing and development of land, easements, rights-of-way, building, facilities, leases, or materials.

(iii) Purchasing of equipment, leasehold improvements, machinery or supplies.

(iv) Pollution control and abatement.

(v) Transportation services.

(vi) Startup operating costs and working capital.

(vii) Interest (including interest on interim financing) during the period before the facility becomes income producing, but not to exceed 3 years.

(viii) Feasibility studies.

(ix) Reasonable fees and charges only as specifically listed in this subparagraph. Authorized fees include loan packaging fees, environmental data collection fees, and other professional fees rendered by professionals generally licensed by individual State or accreditation associations, such as engineers, architects, lawyers, accountants, and appraisers. The amount of fee will be what is reasonable and customary in the community or region where the project is located. Any such fees are to be fully documented and justified.

(x) Aquaculture including conservation, development, and utilization of water for aquaculture. Aquaculture means the culture or husbandry of aquatic animals or plants by private industry for commercial purposes including the culture and growing of fish by private industry for the purpose of granting or augmenting publicly-owned or regulated stock of fish.

[53 FR 30656, Aug. 15, 1988, as amended at 63 FR 6053, Feb. 6, 1998]

§ 1951.854 Ineligible assistance purposes.

(a) *RDLF Intermediaries.* RDLF loans may *not* be used by the intermediary:

(1) For payment of the intermediary's own administrative costs or expenses.

(2) To purchase goods or services or render assistance in excess of what is needed to accomplish the purpose of the ultimate recipient project.

(3) For distribution or payment to the owner, partners, shareholders, or beneficiaries of the ultimate recipient or members of their families when such persons will retain any portion of their equity in the ultimate recipient.

(4) For charitable and educational institutions, churches, organizations affiliated with or sponsored by churches, and fraternal organizations.

(5) For assistance to government employees, military personnel, or principals or employees of the inter-

mediary who are directors, officers or have major ownership (20 percent or more) in the ultimate recipient.

(6) For relending in a city with a population of twenty-five thousand or more as determined by the latest decennial census.

(7) For a loan to an ultimate recipient which has applied or received a loan from another intermediary unless FmHA or its successor agency under Public Law 103-354 provides prior written approval for such loan.

(8) For any line of credit.

(9) To finance more than 75 percent of the total cost of a project by the ultimate recipient. The total amount of RDLF loan funds requested by the ultimate recipient plus the outstanding balance of any existing RDLF loan(s) will not exceed \$150,000. Other loans, grants, and/or intermediary or ultimate recipient contributions or funds from other sources must be used to make up the difference between the total cost and the assistance provided with RDLF funds.

(10) For any investments in securities or certificates of deposit of over 30-day duration without the concurrence of FmHA or its successor agency under Public Law 103-354. If the RDLF funds have been unused to make loans to ultimate recipients for 6 months or more, those funds will be returned to FmHA or its successor agency under Public Law 103-354 unless FmHA or its successor agency under Public Law 103-354 provides an exception to the RDLF intermediary. Any exception would be based on evidence satisfactory to FmHA or its successor agency under Public Law 103-354 that every effort is being made by the intermediary to utilize the RDLF funding in conformance with program objectives.

(b) *Ultimate recipients.* Ultimate recipients may *not* use assistance received from RDLF intermediaries involving RDLF funds:

(1) For agricultural production, which means the cultivation, production (growing), harvesting, either directly or through integrated operations, of agricultural products (crops, animals, birds and marine life, either